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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,694	01/09/2001	Anders Andreasson	JMYT-217 US	8633
23122	7590	10/29/2003	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			JOHNSON, EDWARD M	
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		1754	DATE MAILED: 10/29/2003	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/601,694	ANDREASSON ET AL.	
	<b>Examiner</b> Edward M. Johnson	<b>Art Unit</b> 1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 September 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 and 13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8 and 13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). <u>16</u> .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>20</u> .	6) <input type="checkbox"/> Other:

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**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. It is first noted that proposed new claims 14 and 15 have not yet been entered because they were presented in Applicant's previous after-final response, which Applicant did not request to be entered in the instant RCE. However, Applicant is still invited to submit those claims to replace the instant claims 1 and 7 in an appropriate after-final amendment.

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/29/03 has been entered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn US 4,912,776 in view of Frederiksen et al. WO 97/43528.

Regarding claims 1 and 7, Alcorn '776 discloses an SCR system for treating NO<sub>x</sub> in exhaust gas (see column 1, lines 23-25) comprising a first (see column 3, lines 13-14) oxidation catalyst effective to convert NO to NO<sub>2</sub> (see column 1, lines 9-10 and 15-16; column 2, lines 7-14), a source and injection means of reductant fluid (see column 3, lines 27-31 and column 5, lines 1-10) wherein the SCR system catalysts are located both down and upstream of the injection means (see column 4, lines 26-29).

Alcorn '776 fails to disclose a particulate filter.

Frederiksen '528 discloses a particle filter (see page 3, lines 22-25).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the particle filter of Frederiksen in the SCR exhaust gas treatment system of Alcorn because Frederiksen discloses his filter in a SCR exhaust gas treatment silencing process (see page 8, lines 15-16) to force the exhaust gas to take tortuous

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paths and achieve a mechanical filtering effect (see page 8, lines 1-4).

Regarding claim 2, Alcorn '776 discloses ammonia (see column 3, lines 27-31 and column 5, lines 1-10).

Regarding claim 3, Alcorn '776 discloses platinum catalyst (see column 4, lines 41-44) and a honeycomb carrier having flow passages (see column 4, lines 27-34).

Regarding claim 4, Frederiksen '528 discloses a wall-flow particle filter (see page 3, lines 22-25).

Regarding claim 13, Frederiksen '528 discloses urea (abstract).

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn '776 in view of Yavuz et al. US 6,274,107.

Regarding claims 1 and 7, Alcorn '776 discloses an SCR system for treating NO<sub>x</sub> in exhaust gas (see column 1, lines 23-25) comprising a first (column 3, lines 13-14) oxidation catalyst effective to convert NO to NO<sub>2</sub> (see column 1, lines 9-10 and 15-16; column 2, lines 7-14), a source and injection means of reductant fluid (see column 3, lines 27-31 and column 5, lines 1-10) wherein the SCR system catalysts are located both down and upstream of the injection means (see column 4, lines 26-29).

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Alcorn '776 fails to disclose a particulate filter.

Yavuz '107 discloses a particulate filter (see column 7, lines 6-7).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the filter of Yavuz in the SCR exhaust gas treatment system of Alcorn because Yavuz discloses his filter in a process for treating exhaust gas making reference to SCR systems (page 1, abstract and publications list) to block alternate channels to pass exhaust gas through to exit the carrier structure (see column 7, lines 9-14).

Regarding claim 2, Alcorn '776 discloses ammonia (see column 3, lines 27-31 and column 5, lines 1-10).

Regarding claim 3, Alcorn '776 discloses platinum catalyst (see column 4, lines 41-44) and a honeycomb carrier having flow passages (see column 4, lines 27-34).

Regarding claim 4, Yavuz '107 discloses a wall-flow filter (see column 7, lines 6-7).

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn '776 in view of Frederiksen '528 as applied to claim 1 above, and further in view of Yoshida et al. US 5,534,237.

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Regarding claims 5 and 6, Alcorn '776 discloses operation at a sufficiently low temperature to convert NO to NO<sub>2</sub> (see abstract).

Alcorn '776 fails to disclose means to cool gases upstream of the SCR catalyst.

Yoshida '237 discloses means for sensing the exhaust gas temperature and controlling the flow of the exhaust gas to raise or lower the temperature (see column 11, lines 11-20) upstream of the exhaust gas cleaner (see column 11, lines 1-6).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the upstream temperature control of Yoshida in the SCR exhaust gas treatment system of Alcorn because Yoshida discloses his controlling in an exhaust gas cleaning system (title, abstract) to adjust with changing driving conditions and ensure high-efficiency in cleaning of the exhaust gas (see column 11, lines 7-10).

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn '776 in view of Yavuz '107 as applied to claim 1 above, and further in view of Yoshida et al. '237.

Regarding claims 5 and 6, Alcorn '776 discloses operation at a sufficiently low temperature to convert NO to NO<sub>2</sub> (see abstract).

Alcorn '776 fails to disclose means to cool gases upstream of the SCR catalyst.

Yoshida '237 discloses means for sensing the exhaust gas temperature and controlling the flow of the exhaust gas to raise or lower the temperature (see column 11, lines 11-20) upstream of the exhaust gas cleaner (see column 11, lines 1-6).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the upstream temperature control of Yoshida in the SCR exhaust gas treatment system of Alcorn because Yoshida discloses his controlling in an exhaust gas cleaning system (title, abstract) to adjust with changing driving conditions and ensure high-efficiency in cleaning of the exhaust gas (see column 11, lines 7-10).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn '776 in view of Frederiksen '528 as applied to claim 1 above, and further in view of Twigg et al. US 6,294,141.

Regarding claim 8, Alcorn fails to disclose a light duty diesel engine.

Twigg '141 discloses a light duty diesel engine (see abstract).

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It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the light duty diesel engine of Twigg with the SCR exhaust gas cleaning system of Alcorn because Twigg discloses his light duty diesel engine in a catalytic emission control system since light diesels operate at appreciably lower temperatures (see column 1, lines 39-40) and to increase the engine operating envelope and economy, and to deal with soot (see column 1, lines 45-48).

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alcorn '776 in view of Yavuz '107 as applied to claim 1 above, and further in view of Twigg '141.

Regarding claim 8, Alcorn fails to disclose a light duty diesel engine.

Twigg '141 discloses a light duty diesel engine (see abstract).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the light duty diesel engine of Twigg with the SCR exhaust gas cleaning system of Alcorn because Twigg discloses his light duty diesel engine in a catalytic emission control system since light diesels operate at appreciably lower temperatures (see column 1, lines 39-40) and to increase the engine operating

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envelope and economy, and to deal with soot (see column 1, lines 45-48).

***Allowable Subject Matter***

10. Claims 1 and 7 would be allowable if rewritten in independent form to include (disclosed in the instant specification on page 3, last paragraph), at the end, the following: --and wherein the SCR catalyst comprises a V<sub>2</sub>O<sub>5</sub>/WO<sub>3</sub>/TiO<sub>2</sub> catalyst, supported on a honeycomb through-flow support--.

11. The following is a statement of reasons for the indication of allowable subject matter: It would not have been obvious to one of ordinary skill in the art at the time the invention was made to include a V<sub>2</sub>O<sub>5</sub>/WO<sub>3</sub>/TiO<sub>2</sub> catalyst, supported on a honeycomb through-flow support in the SCR catalyst of the instant claims 1 and 7.

***Response to Arguments***

12. Applicant's arguments filed 9/29/03 have been fully considered but they are not persuasive.

It is argued that the applicants' representative and the Examiner also discussed Fredricksen '528. This is not persuasive because Applicant appears to admit that "Frederiksen '528 also discloses that process (A) could follow (B) or (C)" (see Frederiksen at page 19, lines 7-14). And in any case, even in

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Applicant's cited passage of Frederiksen (page 17, lines 1-13), Applicant appears to admit that Frederiksen discloses that "(C) may follow (B), or (B) may follow (C)", the former of which would entail the filter being downstream from the oxidation catalyst. Although SCR is disclosed as being "first" in Frederiksen, the claim still are not considered to define over the cited prior art because Frederiksen is not relied upon for placement of the SCR catalyst, since Alcorn discloses the SCR system catalysts are located both down and upstream of the injection means (see column 4, lines 26-29). One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

It is argued that for completeness, the applicants note... could follow (B) or (C). This is not persuasive for the reasons above. Read as a whole, Frederiksen discloses Applicant's claimed order of oxidation catalyst, particulate filter, reductant, and SCR.

It is argued that also discussed was the rejection of claims 1-4... of Yavuz '107. This is not persuasive because Yavuz '107 refers to Selective Catalytic Reduction of NO on the front page of the reference (see list of "OTHER PUBLICATIONS"), which

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would obviously, to one of ordinary skill, at least suggest relevant combination with the teachings of an SCR process such as that of Alcorn '776 .

It is argued that moreover, the manner in which Yavuz '107... is not obvious. This is not persuasive because Applicant appears to admit that Yavuz discloses that wall-flow carriers (filters) may be used, which is the only limitation for which Yavuz is relied upon by the Examiner. The rest of the claimed elements are disclosed by Alcorn '776. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

#### **Conclusion**

13. This is a RCE of applicant's earlier Application No. 09/601,694. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a) .

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 703-305-0216. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EMJ  
October 22, 2003



STANLEY S. SILVERMAN  
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